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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/590,130	12/19/2006	Gregor Kohlruss	KOHLRUSS ET AL-20 PCT	4040
25889	7590	09/08/2008	EXAMINER	
COLLARD & ROE, P.C. 1077 NORTHERN BOULEVARD ROSLYN, NY 11576			CHIN, RANDALL E	
			ART UNIT	PAPER NUMBER
			3723	
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/590,130	Applicant(s) KOHLRUSS ET AL.	
	Examiner Randall Chin	Art Unit 3723	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 June 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 8-12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 8-11 is/are rejected.
- 7) ☒ Claim(s) 12 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Objections

1. Claims 8 and 12 are objected to because of the following informalities:

Claim 8, lines 10-11, the phrase “when doing bent...” is awkwardly written.

Claim 12, line 4, correct “bending bending”.

Appropriate correction is required.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 8-11 are rejected under 35 U.S.C. 102(b) as being anticipated by Lee et al. 2002/0112301 (hereinafter Lee).

As for claim 8, Lee discloses in Figs. 1-7, for example, a device for cleaning a hollow bottle or vessel 10 that has a narrow neck at the top and below it a radially widened cavity, comprising a cap or handle 3, a cleaning head that can be passed through the narrow neck of the hollow vessel (Fig. 4) that extends in an insertion direction, said loop being covered with a cleaning material (washing brush) and bending outward when hitting a bottom of the hollow vessel (Fig. 5), and resting against the bottom and walls of the hollow vessel when doing bent, adapting to their contour (Fig.

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5), and wherein the loop consists of a flat plastic strip (since at least part of it is silicon as recited in paragraphs [0035] and [0042]) that is connected with the cleaning material, and the loop has a greater bending resistance in regions subject to less bending stress (note, the plastic strip of the loop 1 has a greater bending resistance in the regions subject to less bending stress (i.e., **just adjacent** the rigid block portion, not explicitly labeled but shown shaded in Fig. 7, and underneath and within cap or handle 3), said regions of less bending stress being located adjacent the handle, than in regions subject to greater bending stress, said regions of greater bending stress being located toward a lower end of the loop (shown in Fig. 5 where loop or strip 1 bends more and closer to a right angle bend at this lower end of the loop), and wherein the plastic strip is configured in two or more layers (since it's two ply in Fig. 8, for example) in the regions of greater bending resistance and in one layer (there is still "a" layer here in Fig. 8, for example) in the region subject to greater bending stress

As for claim 9, the cleaning material is still configured as a removable sleeve "pulled over" (or placed over as shown in Fig. 8, for example) the plastic strip

As for claim 10, the cleaning material 2 is provided, on the outside, with washing hair or textile fibers 2a having a "scrubbing" effect.

As for claim 11, the cleaning material 2 is provided, on the outside, with washing hair or textile fibers 2a also having a "drying" effect. No structural distinction is recited in claims 6 and 7 with respect to such "scrubbing" effect (claim 6) or "drying" effect (claim 7).

Allowable Subject Matter

4. Claim 12 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims and pending clarification of the above claim objection.

Conclusion

5. Applicant's arguments filed 16 June 2008 have been fully considered but they are not persuasive. Applicant's arguments are deemed adequately addressed by the above art rejection and explanations.

It will be added that Applicant's claims are apparatus claims and not method claims thus Applicant's arguments based upon the fact that the instant invention is used to clean out a bulbous decanter for wine as opposed to baby bottles (which Lee teaches) is unpersuasive. Furthermore, a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim. Moreover, it is noted that the features upon which Applicant relies (i.e., cleaning out a bulbous decanter for wine) is not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Randall Chin whose telephone number is (571) 272-1270. The examiner can normally be reached on Monday through Thursday and every other Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Hail can be reached on (571) 272-4485. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Randall Chin/
Primary Examiner, Art Unit 3723